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Remarks: Re: Serial No. 10/042,738
Appeal No. 2004-2256

Attached is another copy of our Reply Brief that was filed on August 6, 2004. Also attached is a copy of the Certificate of Mailing certifying that the Reply Brief was filed on August 6, 2004.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Examiner : Gregory Strimbu
Art Unit : 3634
Applicants : Philip O. Gerard
Serial No. : 10/042,738
Filing Date : May 24, 2002
For : WINDOW FRAME WITH BOTH TEMPORARY AND
PERMANENT CONNECTIONS

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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TRANSMITTAL OF REPLY BRIEF

Enclosed in triplicate is the Reply Brief in the above identified application.

Respectfully submitted,

PHILIP O. GERARD

By: Warner Norcross & Judd LLP

**Original Signed By
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REPLY BRIEF

The Examiner makes a new additional argument in the Examiner's Answer. This Reply Brief responds to that argument.

I. Hopper Does Not Disclose, Teach, Suggest, or Contemplate Rotating a Frame Half

The Examiner asserts that Hopper discloses rotating one of the frame halves in its own plane between a ship orientation and an install orientation, on the basis that "since applicant has failed to define any element of the invention which the second frame half is rotated with respect to, the second frame half can be moved between the ship and install orientations by simply rotating the whole assembly in its own plane."

The Examiner makes this assertion for the first time in the Examiner's Answer, despite the extensive prosecution history of this continuation application and its parent application. The Applicant respectfully disagrees with the Examiner's assertion.

First, Hopper does not suggest or contemplate -- let alone teach -- 1) separate "ship" and "install" orientations or 2) rotating either or both frame halves between such two orientations. The only motivation for the Examiner's assertion is an improper attempted

hindsight reconstruction of the present invention. There simply is no support or motivation, either in Hopper or the art, for the Examiner's assertion.

Second, the claim must be read in the context of the specification and the extensive prosecution history of this continuation application and its parent. For example, the specification states at page 2, lines 20-22 that:

The frame halves can be oriented *with respect to one another* in either a "ship" orientation or an "install" orientation. The frame halves can be moved between the two orientations by rotating *one of the frame halves* by 180 degrees." (Emphasis added).

When properly read within the context of the specification and prosecution history, it is abundantly clear that the rotation of one frame half is respect to the other frame half.

For the reasons stated in this Reply Brief and the previous Appeal Brief, the Applicant remains of the opinion that the Examiners' rejections are improper and should be reversed.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that the attached Reply Brief (in triplicate) is being deposited with the
 United States Postal Service as first class mail in an envelope addressed to:

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 Alexandria, VA 22313-1450

on August 6, 2004.

Respectfully submitted,

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